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PTO/SB/64 (01-08)
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U.S. Patent and Trademark Office; U.S. DEPARTMENT OF COMMERCE

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PETITION FOR REVIVAL OF AN APPLICATION FOR PATENT ABANDONED UNINTENTIONALLY UNDER 37 CFR 1.137(b)	Docket Number (Optional)
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First named inventor: **WILLIAM ROGERS**
Application No.: **10 621 286** Art Unit: **3135**
Filed: **APRIL 2003** Examiner: **JOHN LAYCK**
Title: **ELECTROMAGNETIC BRAIN ANIMATION**

Attention: Office of Petitions
Mail Stop Petition
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450
FAX (571) 273-8300

NOTE: If information or assistance is needed in completing this form, please contact Petitions Information at (571) 272-3282.

The above-identified application became abandoned for failure to file a timely and proper reply to a notice or action by the United States Patent and Trademark Office. The date of abandonment is the day after the expiration date of the period set for reply in the office notice or action plus an extensions of time actually obtained.

APPLICANT HEREBY PETITIONS FOR REVIVAL OF THIS APPLICATION

NOTE: A grantable petition requires the following items:

- (1) Petition fee;
- (2) Reply and/or issue fee;
- (3) Terminal disclaimer with disclaimer fee - required for all utility and plant applications filed before June 8, 1995; and for all design applications; and
- (4) Statement that the entire delay was unintentional.

1. Petition fee

- ☐ Small entity-fee \$ _____ (37 CFR 1.17(m)). Applicant claims small entity status. See 37 CFR 1.27.
- ☐ Other than small entity - fee \$ _____ (37 CFR 1.17(m))

2. Reply and/or fee

A. The reply and/or fee to the above-noted Office action in the form of _____ (identify type of reply):

- ☐ has been filed previously on _____.
- ☐ is enclosed herewith.

B. The issue fee and publication fee (if applicable) of \$ _____.
☐ has been paid previously on _____.
☐ is enclosed herewith.

(Page 1 of 2)

This collection of information is required by 37 CFR 1.137(b). The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 1.0 hour to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Mail Stop Petition, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

If you need assistance in completing the form, call 1-800-PTO-9199 and select option 2.

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3. Terminal disclaimer with disclaimer fee

- ☐ Since this utility/plant application was filed on or after June 8, 1995, no terminal disclaimer is required.
- ☐ A terminal disclaimer (and disclaimer fee (37 CFR 1.20(d)) of \$ _____ for a small entity or \$ _____ for other than a small entity) disclaiming the required period of time is enclosed herewith (see PTO/SB/63).

4. STATEMENT: The entire delay in filing the required reply from the due date for the required reply until the filing of a grantable petition under 37 CFR 1.137(b) was unintentional. [NOTE: The United States Patent and Trademark Office may require additional information if there is a question as to whether either the abandonment or the delay in filing a petition under 37 CFR 1.137(b) was unintentional (MPEP 711.03(c), subsections (III)(C) and (D)).]

WARNING:

Petitioner/applicant is cautioned to avoid submitting personal information in documents filed in a patent application that may contribute to identity theft. Personal information such as social security numbers, bank account numbers, or credit card numbers (other than a check or credit card authorization form PTO-2038 submitted for payment purposes) is never required by the USPTO to support a petition or an application. If this type of personal information is included in documents submitted to the USPTO, petitioners/applicants should consider redacting such personal information from the documents before submitting them to the USPTO. Petitioner/applicant is advised that the record of a patent application is available to the public after publication of the application (unless a non-publication request in compliance with 37 CFR 1.213(a) is made in the application) or issuance of a patent. Furthermore, the record from an abandoned application may also be available to the public if the application is referenced in a published application or an issued patent (see 37 CFR 1.14). Checks and credit card authorization forms PTO-2038 submitted for payment purposes are not retained in the application file and therefore are not publicly available.

William Rogers
Signature

Apr 24, 2008
Date

William Rogers
Typed or printed name

10 627 286
Registration Number, if applicable

3614 HUNTERS CIRCLE
Address

210-860-3655
Telephone Number

SAN ANTONIO TX 78230
Address

Enclosures: ☐ Fee Payment☐ Reply☐ Terminal Disclaimer Form☐ Additional sheets containing statements establishing unintentional delay☐ Other: _____**CERTIFICATE OF MAILING OR TRANSMISSION [37 CFR 1.8(a)]**

I hereby certify that this correspondence is being:

- ☒ Deposited with the United States Postal Service on the date shown below with sufficient postage as first class mail in an envelope addressed to: Mail Stop Petition, Commissioner for Patents, P. O. Box 1450, Alexandria, VA 22313-1450.
- ☐ Transmitted by facsimile on the date shown below to the United States Patent and Trademark Office at (571) 273-8300.

Date

William Rogers
Signature
Typed or printed name of person signing certificate



AN ATTEMPT AT PROPER FORM

Behavior Research Institute

South Texas Medical Center
San Antonio, Texas 78229
Phone: 210-860-3655
Email: BehaviorResearch@aol.com

April 24, 2008

FAX TO: **Attention Office Of Petitions** - 571-273-8300
FROM: William Rogers, Ph.D.
Reference Patent Application # 10/627,286

To Whom It May Concern:

Everything in the 'abandonment' notification we received recently is incorrect and completely without foundation. How our work could be treated in such a manner after nearly five [5] years of continued attention to all details to make sure this 'worst case scenario' could not possibly occur is quite incomprehensible.

As we understand it, there were two [2] reasons for causing our invention to be considered 'abandon'.

1. Failure to timely respond reference corrected claims.
2. Failure to respond following notification of possible 'abandonment' tag.

Nothing was late; USPTO received all corrected claims more than two months before the deadline. Examiner John Layck verified this fact on several occasions. Then it was brought to our attention that it was USPTO that lost our timely return of corrected claims and then found them 6 months later and then only after we had called to inquire to our concern. The whole history of this folly is recorded both on the patent PAIRS site and elsewhere. I personally reminded and warned Mr. John Lacyk both by phone and by fax at least a dozen times to be sure and not forget what really, actually happened and don't just put 'late' in the files not knowing what you're talking about. He stated directly to me that he did not see any problem with what had happened and due to the fact that USPTO was responsible for any tardiness, if he could he would try to put extra effort on our patent to get it through in a normal timely manner. We are sure if you inquire of Mr. Lacyk he will relay the factual situation.

As far as not responding to notice of possible "abandonment"; we never received any notification. And in fact, carried on more than 13 separate conversations with Mr. Layck after that so-called date of notification - with no indication from him other than 'things were moving along as hey should

Thank goodness everything is well documented and easily verifiable; but even so, how can USPTO make such an important and derogatory determination without any communication with us at all. We, of course, contacted Mr. Lacyk on more than 30 different occasions over the past five years just to make sure all was going correctly. Mr. Layck did not initiate contact with us once over that same period of time.

We have again retained a patent attorney to once again help sheppard us through this major misunderstanding and on to the conclusion of approval. in the meanwhile, due to the non-normal 'bumps' in our patent road, we have gone from a small company of 32 employees with 3 million dollars of scientific expenditure funds available - to now just 5 of us, all scientists, - support and all other staff have had to be let go and now only enough funds to keep the lights on.

Thursday, April 24, 2008 AOL: BehaviorResearch

Before all this we were fortunate enough to sign potential leasing contracts with two of the most esteemed science institutes in the world; one being the National Aeronautics and Space Administration. Now, both have, at least temporarily, backed away.

Bill

William Rogers, Ph.D.
CEO-Director, Behavioral Medicine
Behavior Research Institute
BehaviorResearch@aol.com

Member:
American Association for the Advancement of Science



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